IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

CRP.No. 408 of 2004

IN IA NO. 1124 AGAINST THE JUDGMENT AND DECREE DT. 30/1/2002 IN AS NO. 74/2000 ON THE FILE OF THE SUB COURT, MUVATTUPUZHA IN OS NO. 123/2003 ON THE FILE OF THE MUNSIFF'S COURT, MUVATTUPUZHA

REVN. PETITIONER: APPLICANTS

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1. STATE OF KERALA REP.BY CHIEF SECRETARY TO GOVERNMENT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. TAHSILDAR, KOTHAMANGALAM.

4. VILLAGE OFFICER, THRIKKARIYOOR.

BY GOVERNMENT PLEADER SMT. R. BINDHU

RESPONDENTS: RESPONDENT

K.C.YACOB, AGED 67 YEARS, S/O. CHERIYAN, RESIDING AT KALLAYILPARAMBIL, THANKALAM KARA, THRIKKARIYOOR VILLAGE.

BY ADV. SRI.V.P.YOHANNAN
SRI. A.C.CHACKO

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.408 OF 2004

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Dated this the 8th day of October 2007

ORDER

This civil revision petition is preferred against the order of the Sub Court, Muvattupuzha in dismissing the delay condonation application, I.A.No.1124/2000 in A.S.No.74/2000. The Government preferred an appeal against the judgment and decree of the Munsiff's Court, Muvattupuzha in O.S.No.121/1993 with a delay of 1503 days. The plaintiff instituted a suit alleging that he is the absolute owner in possession of 72.600 cents of land in Sy.No.498/9 of Thrikkariyoor Village from time immemorial. The Government, I am told, filed a written statement and the disputed property is having an extent of 9 cents of land. Learned Government Pleader very strongly contends before me that though the delay is much, there are reasons and it is the public interest that is involved and therefore the court has to liberally construe and condone the delay in filing the appeal. I find that the Government Pleader, who conducted the case himself has filed an affidavit to the effect that he prepared the memorandum of appeal and forwarded to the Tahsildar, who in turn send it to the Collectorate and

finally for approval of the Government. But due to administrative exigencies and other difficulties, the delay has been caused. The Government cannot be treated at a different level than a private party and it is also held in many decisions that one cannot have a step motherly attitude to the Governmental matters(AIR 1987 SC 1353). Now it is the Government land that is involved and rightly or wrongly there is delay. If a person is having right over the property it can be established and even if the delay is condoned, he will not loose his right because on merits he can always contest the case. But as far as public interest is concerned, the case should not be thrown out on technical grounds because it will affect the public at large. Therefore, applying the broad principles of natural justice and the fact that the Governmental property is involved and that some reasonable explanation has been given, I am inclined to condone the delay. But the persons responsible for the laches have to realise their laches and for that costs have to be ordered.

Therefore, I condone the delay in filing the appeal on deposit of Rs.3,500/- as costs to be paid to the plaintiff in the suit within one month from today. I also make it clear that the Government is at liberty to realise the said amount from the persons who are responsible for the delay. If the amount is not deposited within a period of one month from today, the C.R.P.

will stand automatically dismissed and if it is deposited or paid, the appellate court is directed to take the appeal on file, as the delay is condoned and then proceed to dispose of the matter in accordance with law. I am informed that the plaintiff is an aged person. So I direct the court below to dispose of the matter as expeditiously as possible. Parties are directed to appear before the court below on 7.11.2007.

M.N.KRISHNAN, JUDGE

Cdp/-